

Brookline, New Hampshire
Article XIII Wetlands Conservation District
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Zoning Ordinance

TOWN OF BROOKLINE ZONING ORDINANCE

ARTICLE XIII

WETLANDS CONSERVATION DISTRICT

1. PURPOSE AND INTENT

The purpose of this Wetlands Conservation District ordinance is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended periods of time. It is intended that this ordinance shall:

1. prevent the destruction of, or significant changes to, natural wetlands which provide flood protection, discharge and recharge of groundwater supplies, and continuing existence of important wildlife areas;
2. prevent the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface and groundwater by sewage or toxic substances;
3. protect sensitive, unique and unusual natural areas;
4. protect the quality and quantity of existing and potential water supplies, aquifers and aquifer recharge areas;
5. encourage those uses that can be appropriately and safety located in wetland areas.

2. DISTRICT BOUNDARIES

2.1. Wetlands Conservation District Definition

The Town of Brookline Wetlands Conservation District is defined as those areas delineated as very poorly drained or poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Services (SCS) publication, Soil survey of HILLSBOROUGH COUNTY, NEW HAMPSHIRE, EASTERN PART, issued October 1981, as amended. The Wetlands Conservation District also includes those areas where site specific field survey by a soils scientist qualified by the New Hampshire State Conservation Committee locates poorly or very poorly drained soils not identified in the SCS published soil survey.

2.2 Wetlands Incorrectly Delineated

In the event that an area has been incorrectly delineated as part of the Wetland Conservation District, and evidence to that effect is presented to the satisfaction of the Planning Board or their representative in site plan reviews or subdivisions, or to the satisfaction of the Board of Selectmen or their representative in other cases, the restrictions contained in this ordinance shall not apply.

2.3. Establishment of a District

The limits of the Wetlands Conservation District are hereby determined to be wetland areas of one (1) acre or more in size, or wetland areas of any size if contiguous to surface waters such as lakes, ponds, rivers, streams or brooks.

Relation to Other Districts

In all cases where the Wetlands Conservation District is superimposed over another zoning district in the Town of Brookline, that district whose regulations are more restrictive shall apply.

3. WETLANDS CONSERVATION DISTRICT PERMITTED USES

Permitted uses are those that do not result in the erection of any structure or alter the surface configuration by the addition of fill, and that are otherwise permitted by the Brookline zoning ordinance. Such uses include the following:

1. forestry and tree farming, using the best management practices to protect streams from damage and to prevent sedimentation;
2. cultivation and harvesting of crops according to recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
3. State approved water impoundments;
4. construction of wells for water supply;
5. maintenance of existing drainage ways, such as streams, creeks or other paths of normal runoff water;
6. conservation areas, nature trails, parks and recreation uses consistent with the purpose and intent of this ordinance;
7. dry hydrants and fire protection ponds.

4. SPECIAL PROVISIONS

Special provisions of this ordinance shall include:

1. Wetland Conservation District areas, excluding bodies of water, may be used to satisfy minimum lot area requirements provided that portion which is wetland does not exceed

twenty-five (25) percent of the minimum required lot area, and provided that the remaining lot area is sufficient in size and configuration to adequately accommodate all required utilities, such as sewage disposal and water supply.

2. Construction or enlargement of septic tank or leach field shall follow New Hampshire state regulations regarding setback from wetland areas (75'), except in those locations where the soil type is coarse textured soil with rapid to very rapid permeability, as referenced in the SCS publication, where a 125' setback shall be required to any area of the Wetland Conservation District.

3. If any section, provision, portion, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair, or invalidate any other section, provision, portion, clause or phrase of this ordinance.

5. SPECIAL EXCEPTIONS

The Planning Board, in site plan reviews or subdivisions, or the Zoning Board of Adjustment in other matters, after proper public notice and public hearing, may grant special exceptions for the following uses within the Wetland Conservation District.

1. Streets, roads, and other access ways and utility right of way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wetlands Conservation District;

2. The undertaking of a use not otherwise permitted in the Wetland Conservation District, which may include the erection OF a structure, dredging, filling, draining, or otherwise altering the surface configuration of the land, if it can b& shown that such proposed use will not conflict with the purpose and intentions of this ordinance and if such proposed use is otherwise permitted by the zoning ordinance.

Proper evidence to this effect shall be submitted in writing to the Planning Board or the Board of Adjustment and shall be accompanied by the findings of a review by the Hillsborough County Conservation District.